

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

THOMAS SAYRES,

Plaintiff,

v.

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CIVIL ACTION NO. 1:10CV128  
(Judge Keeley)

WEXFORD HEALTH SERVICES, INC.,  
WARDEN WILLIAM M. FOX, and  
JIM RUBENSTEIN,  
Commissioner D.O.C,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 12)  
AND DISMISSING 42 U.S.C. § 1983 SUIT WITH PREJUDICE**

The pro se plaintiff, Thomas Sayres ("Sayres"), filed this action pursuant to 42 U.S.C. § 1983, alleging inadequate medical care at the West Virginia correctional facility where he is incarcerated. Upon a preliminary review and before ordering the defendants to answer, the Honorable James E. Seibert, United States Magistrate Judge, issued a Report and Recommendation ("R&R") on September 20, 2010, concluding that Sayres's complaint failed to state a cause of action against any of the defendants for liability under § 1983. On October 4, 2010, the Court entered an order granting Sayres an extension to December 7, 2010, within which to file any objection to the R&R.

Sayres has not filed any such objection; instead, on November 29, 2010, Sayres filed a letter with the Clerk indicating that he did not intend to proceed with the suit. Accordingly, the Court

**ORDER ADOPTING REPORT AND RECOMMENDATION**

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**ADOPTS** the R&R (dkt. 12) in its entirety, and **DISMISSES** this action **WITH PREJUDICE**.

It is so **ORDERED**.

The Court directs the Clerk to prepare a separate judgment order and to transmit copies of both orders to the pro se plaintiff via certified mail, return receipt requested.

DATED: March 18, 2011.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE